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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*Habit  
Air Pass*

**FILE:** B-187597

**DATE:** January 24, 1977

**MATTER OF:** Christie J. Gagliano - Retroactive wage  
rate adjustment

**DIGEST:** Wage board employee claimed wage rate increase retroactive to date of wage adjustment given to other positions in employing agency. Although employee claims administrative error for failure to implement intended personnel action, retroactive salary increase may not be paid since record fails to establish administrative intent to adjust employee's salary prior to date of such adjustment.

This action concerns an appeal dated July 22, 1976, by Mr. Christie J. Gagliano requesting reconsideration of our Claims Division settlement dated May 4, 1976, which disallowed his claim for a retroactive wage rate adjustment.

The record indicates that at all times relevant to this action, Mr. Gagliano was employed by the Department of the Air Force as a Stage and Lighting Director. According to Civil Service Commission announcement number FB-8-23 dated July 31, 1968, the exact hourly rate of pay for that position depends on the prevailing wage rate existing in the geographical area of employment. Pursuant to its authority to establish rates of pay for television system employees of the Department of the Air Force in the Los Angeles area, the Department of Defense (DOD) Wage Fixing Authority, in a memorandum dated June 6, 1969, issued appropriate rates of pay for these employees, establishing step rates for all employees except the Stage and Lighting Director. Subsequently, on June 26, 1969, an Air Force official requested that the necessary action be initiated to place the position of Stage and Lighting Director in the same step scales with other television system positions, thereby increasing the claimant's wage rate.

On October 28, 1970, the DOD Wage Fixing Authority increased Mr. Gagliano's rate of pay \$.46 per hour. However, apparently as the result of the concern expressed, the DOD Wage Fixing Authority determined to give priority consideration to the issue of aligning the rate of pay for the position of Stage and Lighting Director with the applicable step rates of other television system employees. Accordingly, after the examination of union contracts submitted for the purpose of comparing wages and duties of similar employees

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in private industry, the DOD Wage Fixing Authority granted, on May 13, 1971, the authority to so align Mr. Gagliano's rate of pay to \$7.39 per hour, effective May 16, 1971. The record shows further, however, that effective June 30, 1971, the claimant was involved in a reduction-in-force action which terminated his employment. Although he received the additional compensation provided by the DOD Wage Fixing Authority for the remaining period of his employment, Mr. Gagliano now contends that he is entitled to receive this increased salary retroactively for the period from June 6, 1969, to May 15, 1971.

In Settlement Certificate No. Z-2575140, dated May 4, 1976, the Claims Division disallowed Mr. Gagliano's claim on the grounds that an employee may not receive a retroactive increase in salary except to rectify an administrative error. Finding no such error, the claim was denied.

On appeal, Mr. Gagliano contends that by reason of an administrative error, a personnel action was not implemented as administratively intended, and that a retroactive pay increase is therefore warranted. Mr. Gagliano apparently bases his argument on the fact that he ultimately was awarded a salary increase, and on a conversation on July 10, 1969, with a personnel management specialist who had stated that Mr. Gagliano's position was among those receiving an increase. Mr. Gagliano admits, however, that both the personnel specialist and other personnel informed him within 24 hours after the making of that statement that it was incorrect.

The rule is well established that the effective date of a change in salary is the date action is taken by the administrative officer vested with proper authority or a subsequent date fixed by him. 21 Comp. Gen. 95 (1941). Also, it has been held that retroactive action will not be sanctioned by this Office so far as payment of salary is concerned. 33 Comp. Gen. 140 (1953). However, where, due to a clerical or administrative error a personnel action was not effected as originally intended, the error may be corrected retroactively to comply with the original intent without violating the rule. 30 Comp. Gen. 94 (1950); 37 Comp. Gen. 300 (1957); 37 Comp. Gen. 774 (1958). However, in cases involving such administrative error, it is necessary that the wage board or other wage fixing authority already determined to adjust the compensation of the concerned employee. If subsequent to such a determination, formal action to effect the

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adjustment is not taken in a timely manner, as intended by the wage board, consideration may be given to authorizing payment retroactive to the intended effective date.

In the present case, after the June 6, 1969, adjustment concerning other prevailing rate positions, action was initiated by the claimant, with the approval of his immediate supervisors, to have his position placed in the same step scales as other technical positions in his organization. Subsequently, as acknowledged by the claimant in his appeal, the wage fixing authority required information concerning Mr. Gagliano's duties, including estimated percentages of man-hours spent performing each function. Since there was an absence of comparability of the position of Stage and Lighting Director with related positions in commercial network studios, consideration was given to aligning that position in terms of the skills and knowledge required of other special schedule positions within the Government operation. This consideration was not made or acted upon by the Wage Fixing Authority until the time of Mr. Gagliano's salary adjustment on May 13, 1971. Finally, Mr. Gagliano admits that any indication that he was eligible for or would receive a pay increase on July 10, 1969, was immediately retracted as erroneous. In these circumstances, it is clear that the DOD Wage Fixing Authority did not determine to adjust Mr. Gagliano's salary until May 13, 1971. Therefore, there is no administrative error, as claimed by Mr. Gagliano, regarding the effective date of his salary adjustment. In the absence of such error, an increase in the basic compensation authorized by a wage board or other wage fixing authority may not be made prior to the date of final wage board action. B-174278, December 29, 1971.

Accordingly, the Claims Division settlement is hereby sustained.

  
Deputy Comptroller General  
of the United States